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*A.R.*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/035,995	03/06/98	SAITO	T 0039-6551-3R

022850 LM02/0703  
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EXAMINER

WILLETT, S

ART UNIT	PAPER NUMBER
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2756

*12*

DATE MAILED: 07/03/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Advisory Action

Application No.  
09/035,995

Applicant(s)  
Salto et al.

Examiner  
St phan Willett

Group Art Unit  
2756



THE PERIOD FOR RESPONSE: [check only a) or b)]

a) ☒ expires 3 months from the mailing date of the final rejection.

b) ☒ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Jun 26, 1900 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.

☒ will not be entered because:

☐ they raise new issues that would require further consideration and/or search. (See note below).

☐ they raise the issue of new matter. (See note below).

☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

☐ Applicant's response has overcome the following rejection(s): \_\_\_\_\_

☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

See attachment.

☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: NONE

Claims objected to: NONE

Claims rejected: 1-90

☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.

☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Other

**MARK H. RINEHART**  
**PRIMARY EXAMINER**

**DETAILED ACTION**

***Response to Amendment***

1. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected. Thus, Applicant's arguments can not be held as persuasive regarding patentability.
2. Applicant states "thus, Applicant's cannot understand the outstanding Office Action's reason for rejection the independent claims other than Claim 1" in Paper No. 11, Page 2, lines 12-13. The examiner reiterates either or both the client or the server can interchange roles as the first or second physical networks, respectively, since communications is in both directions. In addition, at times the intermediate device, relay device or encoder/decoder could be considered the interface to the first or second physical network. The above argument applies equally to all corresponding claims that reference a second physical device. Without showing a distinction between the first physical device and a second physical device in the environment claimed, Applicant's arguments can not be held as persuasive regarding patentability. The limited structure claimed, without more functional language, reads on the references provided.
3. Applicant suggests "it is unclear as to which network is being identified with the claimed first physical network and which network is being identified with the second physical network" in Paper No. 9, Page 2, lines 22-24. As will be more fully illustrated below, either or both the client or the server can interchange roles as the first or second physical networks, respectively, since communications is in both directions. In addition, at times the intermediate device, relay device or encoder/decoder could be considered the interface to the first or second physical network. Thus,

Applicant's arguments can not be held as persuasive regarding patentability.

4. Applicant suggests "the claimed reserving unit clearly refers to a communication path to the first physical network which is quite distinct from the channel in the second physical network established by the claimed establishing unit" in Paper No. 9, Page 3, lines 6-8. The previous paragraph should answer any contradictions, however, both receiving and sending network devices reserve a channel to communicate with one another as described below. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

5. Applicant suggests "Keshav et al. clearly fails to disclose any commanding of the transmission through the channel established by the establishing unit because Keshav et al does not refer to a connection in column 10" in Paper No. 9, Page 3, lines 17-19. However, above the cited paragraph at col. 5, lines 52-53 Keshav teaches "a routine which performs a service when requested by another routine is called a service routine" which is analogous to a command in an interprocessor communication. In an analogous communication taught below the above cited paragraph, at col. 6, lines 1-3 Keshav teaches "the communication manager further communicates with an Internet protocol ('IP') stack interface and an ATM protocol stack interface" among other commands with other devices. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

6. Applicant further suggests "Keshav et al also clearly fails to disclose any commanding to the transmitting node using a protocol depending on the second physical network" in Paper No. 9, Page 3, lines 19-20. However, Keshav teaches "the invention further utilizes encapsulators and decapsulators to enable communication programs to transfer data packets in a first format on an established virtual circuit over a network transmitting data in a second format", abstract, lines 10-

13. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

7. Applicant suggests "using a protocol depending on the first physical network" in Paper No. 9, Page 4, lines 9-10. However, Keshav teaches "to decapsulate received IP encapsulated packets back into ATM formatted frames" col. 11, lines 57-58 and the same process with an "intermediate destination address for an ATM formatted frame that is to be encapsulated and transmitted", col. 12, lines 8-9, all of which are encoders/decoders and transfer units. The same commands and steps are performed in the reverse communication from a server to a client. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

### *Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rhinehart, can be reached on (703) 305-3817. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-9731.

10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw *[handwritten signature]*

June 29, 2000

*[Handwritten signature]*  
**MARK H. RINEHART**  
**PRIMARY EXAMINER**